REMARKS/ARGUMENTS:

I. Status Of The Claims

Claims 1-47 are currently pending in the application, each of which stand rejected in the outstanding Office Action. By the present Amendment, claim 8 has been cancelled. No new matter has been added. Favorable reconsideration of the application is respectfully requested in light of the foregoing amendments and following remarks.

This application has been granted special status pursuant to 37 C.F.R. § 1.102. Applicants respectfully request prompt action consistent with such status so that a timely appeal may be taken in the event of a subsequent rejection of all claims.

II. Rejections Under 35 U.S.C. §112

Claim 8 stands rejected under 35 U.S.C . §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. In this regard, the Office Action states that it is unclear how orders could be provided to the ETM, but not sent. Applicants respectfully submit that the claim and embodiment are clear in that the filtering module prevents non-binding indication based on certain OMS orders from actually being sent to the ETM. Nonetheless, in the interest of advancing prosecution, Applicants have cancel claim 8 without prejudice or disclaimer. Accordingly, Applicants respectfully request that the rejection be withdrawn.

III. Rejections Under 35 U.S.C. §103

Claims 1, 3-5, 8-9, 12-13, 16-23, 27-28, 31-39 and 42-46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,112,189 to Rickard ("Rickard") in view of

16

U.S. Patent No. 5,924,082 to Silverman et. al. ("Silverman2"). Similarly, claims 2, 10, 14-15, 24, 29-30 and 47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rickard in view of Silverman2 and further in view of U.S. Patent Application 2003/0050888 to Satow et. al. ("Satow"). Furthermore, claims 6-7, 11, 25-26 and 40-41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rickard in view of Silverman2 and further in view of U.S. Patent No. 6,505,175 to Silverman et. al. ("Silverman"). Applicants respectfully submit that neither Rickard, nor Silverman2, nor Satow, nor Silverman, either alone or in combination, teaches or suggests the claimed invention.

In rejecting the claims, Applicants respectfully submit that the Examiner has improperly focused on discrete limitations and/or sub-limitations of the claims to the exclusion of the recited relationship among the various claim limitations. In so doing, the rejections frequently identify specific components—an order management system (OMS), a non-binding indication, a binding order, an electronic trading marketplace (ETM), an OMS database, etc.—without paying due attention or giving due weight to the relationships among such components as recited in the claims.

For example, claims are directed generally to methods and systems that interface with an order management system and that include:

> **deriving non-binding indications to trade securities from records reflecting orders for the securities in an OMS database, and automatically providing such indications to an ETM.**

The claims are not simply directed to an OMS and non-binding indications as alleged by the Examiner; instead, the claims recite a particular relationship between the OMS and the indications, namely that the indications are derived from records for orders in the OMS – a relationship neither taught nor suggested by the cited references, either alone or in combination. Furthermore, the claims are not simply directed to an ETM as the Examiner also alleges; instead, the non-binding indications are automatically provided to the ETM—a function never previously performed, either manually or automatically.

More specifically, the independent claims recite that the claimed methods and systems automatically provide non-binding indications, not firm orders, to the ETM. The non-binding indications <u>are derived from</u> the records reflecting orders in the order management system database. Thus, the claim reflects a conversion from firm orders to non-binding indications; from the proverbial "apples" to "oranges." As such, the claimed invention does not simply involve the combination of an order management system and non-binding indications to trade securities, but rather a specific relationship between records reflecting firm orders in an order management system database and non-binding indications. Furthermore, these non-binding

18

indications are automatically provided to the ETM. As described in the specification, this means

the non-binding indications are transmitted to the ETM "without manual trader intervention."

The rejections to the claims will now be addressed with greater specificity.

A. Claims 45-47

Independent claim 45 and claim 46, which depends therefrom, stand rejected under 35

U.S.C. §103(a) as being unpatentable over Rickard in view of Silverman2. Claim 47, which also

depends from claim 45, stands rejected as being unpatentable over Rickard in view of

Silverman2 and further in view of Satow. Applicants respectfully traverse these rejections.

Independent claim 45 is directed to a method of facilitating security transactions on

multiple markets. More specifically, the claim is explicitly directed to the inventive concept of a

system that permits records reflecting orders in a single OMS to be used for placing both binding

orders in one market and non-binding indications, which are derived from the OMS records, in

another market. In this regard claim 45 recites:

> (1) "initiating transmission of a binding order to a first marketplace of binding orders, the order based on a record in the OMS database"; and
>
> (2) "deriv[ing] non-binding indications from the multiple records reflecting orders in the OMS database and provid[ing] the non-binding indications to a second marketplace different than the first marketplace." Claim 45.

Indeed, before the Applicants' invention, no one provided an interfacing module to read

records in traders' existing OMSs to create a supplemental marketplace of non-binding

indications derived from the same records used to create binding orders in another marketplace. The prior art cited by the Examiner also fails to teach or suggest such a system.

In general, Rickard is directed to a system for automatically performing a negotiation between multiple parties based upon degrees of satisfaction for concluding the negotiation. In the context of linked trading (i.e., the trading of multiple securities in a single simultaneous transaction), a linked trader enters the parameters of the linked trade (multiple securities), as well as a satisfaction profile. Similarly, traders of individual securities enter satisfaction profiles relative to a particular security. A central database collects these inputs of the linked trader and traders. A trade execution system matches traders to the linked trader based upon a degree of mutual satisfaction and simultaneously automatically executes a trade with the linked trader and the appropriate traders in the different securities at the trading parameters (e.g., price, volume) identified by the trading system.

Applicants respectfully submit that the cited references fail to teach or suggest the claimed invention for the reasons noted below. In relying upon Rickard, the Office Action identifies the trader workstations and linked trader workstation as corresponding to the OMS recited in the claim, the central database as corresponding to the OMS database, and the processor of the trading system as the interfacing module of the claim. The Office Action acknowledges that Rickard is directed to the execution of binding offers, not non-binding indications as claimed, and to cure the deficiency of Rickard relies on Silverman2 as teaching "non-binding indications to trade based on data reflective of the trader criteria". See Office Action at 7, 4.

20

1. The References Fail to Teach or Suggest the Recited Multiple Markets

As noted above, claim 45 is explicitly directed to the inventive concept of a system that includes using records reflecting orders in a single OMS to place binding orders, on one hand, and non-binding indications, on the other hand, in separate marketplaces. In rejecting claim 45, the Office Action relies on Rickard as teaching multiple markets (column 19, lines 5-17).

The claim is not directed merely to an OMS, non-binding indications, binding orders and multiple marketplaces. Instead, the multiple marketplaces are recited in a particular context and relationship as they relate to the binding orders and non-binding indications.

> "initiating transmission of a binding order to a first marketplace of binding orders, the order based on a record in the OMS database";
> and

> "deriv[ing] non-binding indications from the multiple records reflecting orders in the OMS database and provid[ing] the non-binding indications to a second marketplace different than the first marketplace." Claim 45.

The cited portion of Rickard, however, simply provides that the systems of Rickard may be used in different markets, for example, a securities market, a commodities market, or a foreign currency market.

> The traders $A_{.1}$ through $A_{.n}$ represent traders in one market, traders $B_{.1}$ through $B_{.m}$ represent traders in another market, and traders $Z_{.1}$ through $Z_{.k}$ represent traders in yet another market. A large number of markets could be represented within the system of the present invention, thus enabling transactions in a variety of securities, commodities and equities. For example, traders $A_{.1}$ through $A_{.1}$ could represent traders from the Pacific Exchange, while traders $B_{.1}$ through $B_{.m}$ represent traders in the foreign currency market in London, and traders $Z_{.1}$ through $Z_{.k}$ could represent traders in the commodities market in Tokyo. Optionally, each trader terminal

21

could have the capability for performing linked trades by selecting
an option from a menu of choices. Column 19, lines 5-17

Using the description given in Rickard of the Pacific Exchange market, the foreign currency

market in London, and the commodities market in Tokyo, a record reflecting an order in one

market has no relationship to an order in another market; a record for an order in one market

(e.g., commodity) cannot be used as the basis for an order in another market (e.g., equity). In

short, nothing in Rickard suggests a record reflecting an order being used for both a market of

binding orders and a market of non-binding indications, as claimed, and nothing in Rickard

suggests using records in an OMS with respect to multiple markets.

In this regard, the Office Action fails to address the explicit language of claim 45 reciting

that the interfacing module is used to "derive non-binding indications from the multiple records

reflecting orders in the OMS database and provide the non-binding indications to a second

marketplace different than the first marketplace." Notably, this claim language is omitted from

the quote at page 7 of the Office Action. Thus, the Examiner has failed to make out a prima

facie case of obviousness.

Silverman2 (as well as the other cited references) fails to cure the deficiencies of Rickard.

As argued in the Office Action (at 7-8), Silverman2 is directed to an automated trading system of

strictly "expressions of interest" not binding orders. The Office Action states that "Silverman2

accommodates automated execution as well as 'expressions of interest' (citing Silverman2,

column 5, lines 16-21); however, Applicants respectfully submit that the Examiner fails to

understand Silverman2 in that the relied upon section (reproduced below) suggests just the

22

opposite, namely, that Silverman2 is directed to a system that does <u>not</u> automatically execute

transactions.

> Furthermore, the negotiated matching system according to the present invention provides a framework for matching potential counterparties without necessarily automatically executing transactions. The discretion to execute a transaction thus may remain with the traders themselves and is not surrendered to the system. Column 5, lines 16-21.

Not only does Silverman2 have no explicit discussions of automatic execution or how it

would occur, but also, as shown by the other quotations to Silverman2 relied on in the Office

Action (at pages 4 and 80), Silverman2 distinguishes its non-binding expressions of interest and

negotiations of the expressions of interest from the prior art firm/binding orders and automatic

execution of such orders.

> Third, <u>in the known automated trading systems</u>, once a trader has entered a bid or offer, the trader <u>no longer has the discretion of negotiating the entered terms</u> of the bid or offer. The system automatically executes trades when compatible offers and/or bids are found. In some systems, a trader may enter a "soft" offer or bid, wherein the trader retains the discretion to either execute or not execute the trade. However, the terms of <u>such a soft offer or bid define the objective criteria that must be satisfied to create a firm offer or bid</u>. <u>The known systems provide no means by which a trader can input a mere "expression of interest"</u> in a particular transaction wherein <u>the trader need not provide predefined objective criteria which would make the expression of interest firm</u>. Silverman2, column 2, lines 17-30 (emphasis added).

> *   *   *

> It is a further objective of the present invention to provide a negotiated trading system which enables users to enter expressions of interest with respect to a type of transaction, wherein the user <u>need not provide defined or objective criteria necessary to complete the transaction</u>. Column 3, lines 56-60 (emphasis added).

23

Silverman2 does not relate to binding or firm, orders and automatic execution.

Even assuming, arguendo, that Silverman2 teaches both binding orders and non-binding indications, Silverman2 fails to teach or suggest the orders and indications being based on OMS records in the same database. Furthermore, Silverman2 is directed to a single marketplace and not, as claimed, a separate marketplace of binding orders and a separate marketplace of non-binding indications.

The Office Action further argues: "It would further have been obvious to provide the resulting non-binding indications to the additional markets disclosed by Rickard because this would provide a composite market for potential traders". As an initial matter, Applicants respectfully submit that the Office Action is unclear. More specifically, what composite market is referred to, and why is this desirable? To the extent Applicants understand this statement, Applicants respectfully disagree. Those skilled in the art would have no desire or motivation to provide a "composite market" based on the non-binding indications. Traders do not necessarily want a composite market, particularly where a market of firm orders already exists. The Office Action simply makes the assumption without explanation that a composite market is desirable. Furthermore, as best understood, the composite market referred to is a single market. Neither Rickard nor Silverman2 (or any other cited reference) teaches or suggests using the same record in an OMS database to provide a binding order to one marketplace and a non-binding indication to another marketplace. Accordingly, Applicants respectfully submit that the cited references fail to teach or suggest the invention of claim 45 and that the claim is in condition for allowance.

24

2. The References Fail to Teach or Suggest Deriving Non-Binding Indications from OMS Records Reflecting Orders for Securities

Applicants respectfully submit that none of the cited references discloses an OMS. As addressed in the previously filed declarations of Richard Repetto, John Coulter and Robert M. Hegarty (the "Declarations"), an OMS is a well-known product and term in the art, namely, a system used by a single firm to record and internally mange that firm's records reflecting orders to buy or sell securities. See Declarations at paragraphs 4-5. Indeed, the specification of the present application is consistent with this well-known definition and identifies illustrative, commercially available OMSs. See paragraph 3; 54.

While an OMS can be implemented on a computer, not every computer is an OMS. Contrary to the Office Action, the trader workstations are not OMSs, and the database of Rickard is not an OMS database. The workstations are simply input devices for entering trade information.

Consistent with this argument, the present specification clearly describes the OMS as more than just the workstations: "The OMS 312 receives instructions from the workstations to create, modify, and/or delete orders and updates the database 114 accordingly." Paragraph 54. Thus, the workstations are not OMSs. The Rickard database is a centralized database that aggregates the trade information from all traders and linked traders (e.g., securities, linked securities and satisfaction profiles). See Rickard, column 19, lines 18-19; column 20, lines 51-54. This database is not a trading firm's OMS but rather is a collection of all traders' trade information. As shown in Figure 1 of the present application, the OMS database 114 is specific

25

to an individual trading firm. The Rickard central database, on the other hand, contains all open

orders and, as such, simply reflects the market. In other words, the Rickard database is part of

the market trading system itself; it is not a database employed by a user interacting with the

market trading system. In contrast, in the present invention, the OMS is a database of a user

interacting with the market trading system; the system interacts with the OMS database, and the

OMS database is distinct from the system.

Furthermore, even assuming, arguendo, that Rickard teaches an OMS, the references fail

to teach or suggest deriving non-binding indications from OMS records reflecting binding

orders. The Office Action points to the trader criteria of Silverman2 as teaching non-binding

indications in Silverman2; however, the trader criteria in Silverman2 are not used for placing

binding orders and, therefore, cannot be "records reflecting orders" as recited in the claims. The

trader criteria in Silverman2 are used exclusively for non-binding expressions of interest and, as

such, can only be "records reflecting expressions of interest". As is made clear by the portion of

Silverman2 quoted in the Office Action, Silverman2 distinguishes itself from the prior art

because it is directed to benefits of non-binding "expressions of interest" and, more specifically,

because the criteria are not reflective of binding orders.

> Third, in the known automated trading systems, once a trader has
> entered a bid or offer, the trader no longer has the discretion of
> negotiating the entered terms of the bid or offer. The system
> automatically executes trades when compatible offers and/or bids
> are found. In some systems, a trader may enter a "soft" offer or bid,
> wherein the trader retains the discretion to either execute or not
> execute the trade. However, the terms of such a soft offer or bid
> define the objective criteria that must be satisfied to create a firm
> offer or bid. The known systems provide no means by which a
> trader can input a mere "expression of interest" in a particular

26

transaction wherein the trader need not provide predefined
objective criteria which would make the expression of interest
firm. Silverman2, column 2, lines 17-30 (emphasis added).

*   *   *

It is a further objective of the present invention to provide a
negotiated trading system which enables users to enter expressions
of interest with respect to a type of transaction, wherein the user
need not provide defined or objective criteria necessary to
complete the transaction. Column 3, lines 56-60 (emphasis added).

Thus, Silverman2 explicitly teaches that the trader criteria is reflective only of non-binding

indications. Therefore, Silverman2 fails to teach or suggest non-binding indications based on

records reflecting orders for securities. In other words, Silverman2 describes expressions of

interest derived from records reflecting only non-binding expressions of interest. Furthermore,

in contrast to the present invention, there is nothing in Silverman2 to facilitate an OMS

interacting with a non-binding market and firm-order venues, simultaneously.

Furthermore, Silverman2 and Rickard each teach away from the recited limitation of

deriving non-binding indications from records in an OMS because each requires traders to

manually enter trade information. See, e.g., Silverman2, Abstract ("Each user enters trading

information . . .into his or her remote terminal."); col. 3, lines 38-50; col. 7, lines 25-30 ("the

users enters [sic] bids and offers . . . into the system using their remote terminals."); see, e.g.,

Rickard, col. 7, lines 17-20 ("a linked trader enters its orders"); col. 7, lines 34-37 ("input from

other traders . . . is collected"); col. 9, lines 41-45 ("a dedicated terminal is used to enter data

when performing a linked trade").

Even combining Silverman2 and Rickard, there is no reference to a system interacting

with an OMS. In addition, there is not system deriving non-binding indications from records

reflecting orders in an OMS. Combining Silverman 2 and Rickard would involve a trader

manually interacting with two distinct trading systems in the same manner as a trader interacts

today with any two distinct markets.

3. Claim 46

Dependent claim 46 further recites that the "transmission of a binding order is performed

manually" and transmission of the non-binding indication is "without further manual

intervention." The Office Action concedes that Rickard does not teach "automatic placement of

non-binding indications from records reflecting orders for securities" but argues Silverman2

cures this deficiency. As argued above, neither Silverman2 nor any of the cited references

teaches or suggests automatically providing to an ETM non-binding indications that are <u>derived</u>

<u>from OMS records reflecting binding orders</u>. Silverman2 is completely unrelated to binding

orders. Therefore, the trader criteria (and any other information) cannot be reflective of a

binding order, as recited in the claims, but only reflective of a non-binding offer. Simply

replacing the binding orders of Rickard with the expressions of interest of Silverman2 would

result in records for expressions being used to generate just that – expressions. There would be

no "apples" to "oranges" conversion as claimed.

The Office Action continues by taking Official Notice that manual initiation of

transmission of binding orders was well known and that it would be obvious to have modified

Rickard to provide for such manual process. Office Action at 9. First, irrespective of whether

manual initiation of trading was well known, such manual transmission is only a small part of the claimed invention. The claim recites manually initiating transmission of binding orders to one market and initiating transmission of non-binding indications to another market without manual intervention, wherein the binding orders and the non-binding indications are based on the same OMS records. Nothing in the cited references or in the "Official Notice" section teaches or suggests the claimed invention. Second, one of skill in the art would not modify Rickard based on Silverman2 as argued in the Office Action because doing so would allow traders to speculate, submitting misleading, unreasonably low satisfaction profiles, only to be unjustifiably awarded the right to negotiate the trade. Even if one were to modify Rickard based on Silverman2, one would end up with a method for a trader to manually transmit indications of interest to a market, in contrast to the present invention, which involves "automatically providing non-binding indications to trade securities derived from the data records in the OMS database reflecting orders for securities to the ETM." The elements of the automated transmission, the OMS and deriving non-binding indications would still be absent from such modified system.

The Office Action also states that the mere automation of a previously manual operation or a computer-related means for performing a previously manual operation cannot add patentability. Office Action at 9. Applicants respectfully submit that the recited providing non-binding indications to the second marketplace without manual intervention is not simply automation of a previously manual process. Indeed, Applicants know of no prior system or method, manual or automated, for reading OMS records reflecting orders, deriving non-binding

29

indications and providing such non-binding indications to a separate marketplace, and the

Examiner has failed to cite to any such prior art.

4. Claim 47

Satow (paragraph 42) is relied upon as teaching what the Office Action refers to as the

database synchronization of claim 47. Once again, the Office Action fails to address or

appreciate the function recited in Claim 47. Claim 47, is directed to more than simple database

synchronization. Claim 47 is directed to:

> (1) "causing the record in the OMS database to be modified based on execution of the binding order in the first marketplace" and

> (2) such modification based on execution of the binding order also being "reflected in a non-binding indication in the second marketplace."

As such, the claim is not directed to simply updating a database as the Examiner alleges, but

rather to both updating an OMS database and using an execution in the first marketplace of

binding orders to update a non-binding indication in the second marketplace.

In contrast, Satow is directed to updating a "MARKET information" database 34 of

aggregate (i.e., multiple trader) information, not an OMS database. Furthermore, the database 34

relates to a single market. When an order in the database 34 is executed, the record is updated.

Like the central database in Rickard, the Satow database reflects the market; it is not a trader's

OMS. Satow does not teach or suggest adjusting a second marketplace based on an execution in

a first marketplace, as claimed.

30

In support of this claimed function the embodiment involves reading Total Order Size and Quantity Placed Elsewhere fields to determine the quantity of a security, if any, that is available to be transacted by the market (Paragraph 59). The cited references, not addressing two separate markets as claimed, does not describe this or any other means for harmonizing markets.

Accordingly, Applicants respectfully submit that claim 45, and claims 46-47, which depend therefrom, are not rendered obvious by the cited references and are in condition for allowance.

B.   Claims 1-42

Claims 1, 3-5, 8-9, 12-13, 16-23, 27-28, 31-39 and 42-46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rickard in view of Silverman2. Applicants respectfully submit that the cited references fail to teach or suggest the claimed invention, namely a system and method, as defined by independent claims 1, 9, 16, 23, 31 and 38, for interfacing with an order management system that includes:

deriving non-binding indications to trade securities from records reflecting orders for the securities in an OMS database, and automatically providing such indications to an ETM.

As with the prior Office Actions, the outstanding Office Action, inter alia, ignores the claimed relationship between non-binding indications and OMS. Indeed, the claims recite a particular relationship between the OMS and the indications, namely the indications are derived from records for orders in the OMS – a relationship neither taught nor suggested by the cited

31

references, either alone or in combination. Furthermore, the non-binding indications are automatically provided to the ETM—a function never performed manually.

More specifically, independent claim 1 recites that the system of the present invention automatically provides non-binding indications, not firm orders, to the ETM. The non-binding indications <u>are derived from</u> the records reflecting orders in the order management system database. Thus, the claim reflects a conversion from firm orders to non-binding indications; from the proverbial "apples" to "oranges." As such, the claimed invention does not simply involve the combination of an order management system and non-binding indications to trade securities, but rather a specific relationship between records reflecting firm orders in an order management system database and non-binding indications. Furthermore, these non-binding indications are automatically provided to the ETM. As described in the specification, this means the non-binding indications are transmitted to the ETM "without manual trader intervention."

In this regard, independent claim 1 recites:

> an interfacing module interfacing with an order management system (OMS) database and in communication with the ETM for reading data records in the OMS database reflecting orders for securities and for **automatically providing non-binding indications to trade securities derived from the data records in the OMS database reflecting orders for securities to the ETM.**

Similarly, independent claim 9 recites an ETM communications module for **"automatically providing non-binding indications to trade securities derived from the data records reflecting orders for securities read from the OMS database."**

32

Independent claim 16 recites "processing data representative of non-binding indications of interest to trade securities, **the indications derived from records reflecting orders for securities automatically read from an OMS database**".

Method claim 23 recites: "**automatically providing non-binding indications to trade securities derived from the data records [in an OMS database reflecting orders for securities] to the electronic trading marketplace.**"

Claim 31 recites: "an electronic trading marketplace (ETM) communications module for **automatically providing non-binding indications to trade securities derived from the data records reflecting orders for securities read from the OMS database** by the OMS database interaction module to the ETM."

Even more explicitly, claim 38 recites the acts of "**deriving non-binding indications to trade securities from the data records [in the OMS database] reflecting orders for securities**" and "**automatically providing the non-binding indications to trade securities to the ETM.**"

In relying upon Rickard, the Office Action identifies the trader workstations and linked trader workstation as corresponding to the ETM recited in the claim, the central database 314 as corresponding to the OMS database, and the processor of the trading system as the interfacing module of the claim. The Office Action acknowledges that Rickard is directed to the execution of binding offers, not non-binding indications, as recited in the claims. Accordingly, to cure the

33

deficiency of Rickard, the Office Action relies on Silverman2 as teaching "non-binding indications to trade based on data reflective of the trader criteria". Office Action at 3.

Applicants respectfully submit that the cited references, both alone and in combination, fail to teach or suggest an OMS and, more particularly, deriving non-binding indications from records reflecting orders in an OMS database and automatically providing such non-binding indications to an ETM.

Applicants respectfully submit that the central database of Rickard is not an OMS database. An OMS is a well-known product and term in the art, namely, a system used by a single firm to enter details of orders for securities, internally manage that firm's orders and manually place orders on exchanges. See Declarations at paragraphs 4-5. Indeed, the specification of the present application is consistent with this well-known definition. See paragraphs 3; 54. As shown in Figure 1 of the present specification, the OMS database (114) is specific and local to each trading firm. The Rickard central database, on the other hand, is a central market database, containing all order information from all of the traders. The Rickard database is an aggregation of order information that is the market. This central database is not part of an internal trader system for managing its orders.

Furthermore, the workstations cannot be the ETM. In Rickard the trade details (i.e., orders) are not sent to the workstations, whereas in the claims, the trade details (i.e., non-binding indications) are sent to the ETM. The workstations are used to input trade information. See, e.g., Rickard, col. 7, lines 17-20 ("a linked trader enters its orders"); col. 7, lines 34-37 ("input from other traders . . . is collected"); col. 9, lines 41-45 ("a dedicated terminal is used to enter

data when performing a linked trade"). Once entered, the central trading system, not the trader

workstations, automatically matches and executes the trades.

> The central database 314 collects input from traders regarding a
> degree of satisfaction of each of the traders to take a position
> opposite to the linked trader in at least one of the different
> securities as a function of price. . . . The processor 313 identifies
> for each of the different securities a trading price, a trading volume
> and a trading party among the one or more second parties that
> maximizes the composite function. The trade execution system
> simultaneously executes a trade with the linked trader and the
> trading parties in the different securities at the trading prices and
> the trading volumes identified by the processor 313. The extraction
> routine 312 extracts information from the database under control of
> the processor. The database 314 collects and stores information
> from the traders regarding the degrees of satisfaction of the traders
> to take either position in the different securities. The extraction
> routine 312 selects from the information collected by the database
> 314 the input regarding the degrees of satisfaction of the traders to
> take a position opposite to the linked party in each of the different
> securities.

No trade information (either binding orders or non-binding indications) is sent to the

workstations, unlike the claims, in which non-binding indications are sent to the ETM.

Therefore, the workstations cannot correspond to the recited ETM.

The Office Action continues by arguing that the recited "data records reflecting orders for

securities" are not orders themselves. Office Action at 3. The Office Action identifies the

"information from the traders regarding the degrees of satisfaction of the traders to take either

position in the different securities" in Rickard (col. 2, lines 5-8) as the claimed data records in

the OMS database reflecting orders for securities. Office Action at 3-4. In response, such

degrees of satisfaction are not records in an OMS and, therefore, do not meet the claim

limitation.

35

Moreover, the claim limitation is **non-binding indications derived from the OMS data records reflecting orders fro securities**. The Office Action simply identifies supposed data records, but fails to identify any non-binding indications based on such records. Indeed, in Rickard, there are no non-binding indications derived from the degrees of satisfaction entered by the traders. Therefore, contrary to the Office Action, the information regarding degrees of satisfaction does not meet the claim limitation.

Notably, claim 16 recites that the records are automatically received (i.e., "pulled" without trader intervention) from the OMS. None of the references teach or suggest this, either. Instead, traders must manually initiate entry and submission of (i.e., "push") each piece of trade information to the market. See, e.g., Silverman2, Abstract ("Each user enters trading information . . .into his or her remote terminal."); col. 3, lines 38-50; col. 7, lines 25-30 ("the users enters [sic] bids and offers . . . into the system using their remote terminals."); see, e.g., Rickard, col. 7, lines 17-20 ("a linked trader enters its orders"); col. 7, lines 34-37 ("input from other traders . . . is collected"); col. 9, lines 41-45 ("a dedicated terminal is used to enter data when performing a linked trade").

Accordingly, Applicants respectfully submit that Claims 1, 9, 16, 23, 31 and 38, as well as the claims that depend therefrom (i.e., claim 1-42), are not rendered obvious by the cited references and are in condition for allowance.

C.   Claim 44

Independent Claim 44 is directed to a method of providing liquidity to an ETM in the

form of non-binding indications derived from the OMS records of multiple traders. In this

regard, the claim recites:

> reading from a first OMS of a first trading firm records reflecting orders for securities of the first trading firm;
>
> reading from a second OMS of a second trading firm records reflecting orders for securities of the second trading firm;
>
> deriving non-binding indications from the first and second trading firms' records reflecting orders; and
>
> providing the non-binding indications to the ETM without manual action by traders at the trading firms, the ETM having liquidity for securities in the form of the non-binding indications of the first and second trading firms.

Claim 44 stands rejected as being unpatentable over Rickard in view of Silverman2. In

rejecting the claim, the Office Action incorporates the rationale of the claim 1 rejection. Claim

44 mirrors claims 1 and 45 in that claim 44 also recites deriving non-binding indications from

records reflecting orders in an OMS and providing such non-binding indications to an ETM

without manual trader intervention. Accordingly, Applicants respectfully submit that claim 44 is

patentable for at least the reasons noted above with regard to claims 1 and 45 based on these

limitations.

In meeting the limitations of claim 44, the Office Action further argues that Rickard

discloses a need for liquidity and "discloses that its invention provides such liquidity at Figs. 22

and 24-29 and Col. 8, line 66 to Col. 9, line 38." Office Action at 6.

37

Contrary to the Office Action, the cited section of Rickard does not describe providing liquidity, but rather simply describes how the system might compensate for insufficient liquidity in connection with a specific trade by downsizing or altering the trade. For example, in one embodiment, "all volumes . . . are adjusted to reflect this downsized trade" (col. 9, lines 3-5); in another embodiment, "a scaled-down version of the desired trade is executed on a pro-rata basis for each security" (lines 8-9); in yet another embodiment, "a minimum volume available in each involved security is determined [and] those volumes are adjusted . . . to reflect the reduced trade" (lines 15-20). Accordingly, Applicants respectfully submit that the cited references fail to teach or suggest the claimed method for providing liquidity.

In meeting the first and second OMSs recited in the claim, the Office Action adds to the rationale of the claim 1 rejection by identifying the plural trader workstations of Rickard as the OMSs. Office Action at 7. Such an argument is inconsistent: in the claim 1 rejection, the trader workstations are relied upon as corresponding to the ETM, whereas with regard to claim 44, the workstations are relied upon as corresponding to the OMSs. This is improper and, moreover, the trader workstations are not OMSs. As argued above, an OMS has a well-known meaning in the art, and the workstations do not meet that definition. The workstations are merely a means for traders to input trade information to the market, not a means to manage trades separate from the market, which is the function of an OMS.

Furthermore, the central database of Rickard is common to all traders and, therefore, cannot be considered a trader OMS. Unlike claim 1, Claim 44 explicitly recites separate OMSs for each trader, not a centralized OMS. This is not simply a distinction in number, but rather a

distinction in kind. An OMS is not a market database for aggregating trader's orders, each OMS is used by an individual trading firm to internally manage its own orders.

Accordingly, Applicants respectfully submit that claim 44 is neither taught nor suggested by the cited references and is in condition for allowance.

D.   Claim 43

Claim 43 is directed to a "system for interacting with OMSs of trading firms" and stands rejected based on the same rationale used to reject claims 44 and 1. Because claim 43, like claim 44, recites non-binding indications derived from OMS records for orders and separate OMSs for each trading firm and non-binding indications derived from OMS records reflecting orders, Applicants respectfully submit that claim 43 is distinguishable over the cited references for at least the reasons noted with regard to claim 44.

Furthermore, claim 43 goes beyond claim 44 by explicitly reciting that "each OMS [is] used to record orders for securities of a different trading firm." As described in the present application (paragraph 54), each OMS is not simply a workstation for inputting orders, but rather an OMS is separate and may interface with such workstations: "The OMS 312 receives instructions from the workstations to create, modify, and/or delete orders and updates the database 114 accordingly." The database 114 is specific to an individual trading firm. As such, trader workstations inputting to the common, central market database of Rickard cannot be considered OMSs.

Still further, claim 43 explicitly recites multiple interfacing modules, each of which interfaces with a separate trading firm OMS. The Office Action fails to address the separate, trading firm-specific interfacing modules. The processor in Rickard is a central processor, used to process trade information of all traders. As shown in Figure 1 of the present application, each trading firm has a separate OMS.

Accordingly, Applicants respectfully submit that claim 43 is neither taught nor suggested by the cited references and is in condition for allowance.

IV. References Not Relied Upon

Applicants respectfully submit that the art made of record but not relied upon fail to cure the deficiencies of the cited references. Indeed, the references fail to teach or suggest an OMS a deriving non-binding indications from OMS records reflecting orders. Further, none teach or suggest providing such non-binding indications to one market and binding orders to another market, as claimed.

E. Dependent Claims

As noted in Applicant's prior paper, Applicants respectfully submit that the dependent claims are further distinguishable over the cited references. In this regard, Applicants submit that the currently, cited references fail to cure the deficiencies signed in the prior paper.

40

CONCLUSION:

Applicants thus believe that the claims in the present application are in condition for allowance. Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and remarks. If the Examiner has any questions or suggestions regarding this response or the application, he is invited to contact the undersigned at the telephone number provided below.

If any extension of time is required to have this paper entered and considered, such extension is hereby petitioned. Any additional fees or charges necessary in connection with the present application are hereby authorized to be charged to Deposit Account No. 19-4709.

Respectfully submitted,

By: _____

Ian G. DiBernardo
Registration No. 40,991
Attorney For Applicants
Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, New York 10038-4982
(212) 806-5867

41